

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: NATURAL GAS AND ELECTRIC MASTER METERING	DOCKET NOS. RMU-02-6 NOI-01-2
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**ORDER ADOPTING AMENDMENTS AND
CLOSING DOCKET**

(Issued December 27, 2002)

Pursuant to the authority of Iowa Code §§ 17A.4, 476.1, and 476.2, the Utilities Board (Board) issued an order on June 28, 2002, commencing a rule making in Docket No. RMU-02-6, In re: Natural Gas And Electric Master Metering, to consider rescinding existing paragraphs 199 IAC 19.3(1)"b" and 20.3(1)"b" and adopting new paragraphs 199 IAC 19.3(1)"b," "c," "d," and "e," and 20.3(1)"b," "c," "d," and "e." In addition, the Board proposed to reletter current paragraphs 19.3(1)"c" and "d" and 20.3(1)"c" and "d." Notice of Intended Action was published in IAB Vol. XXV, No.2 (7/24/02) p. 141, as ARC 1836B.

The purpose of the proposed rule making was to clarify the Board's rules concerning the individual metering requirements for providing natural gas and electric service and to provide more specific standards for when an owner or landlord could master meter a building with multiple occupants. The rules proposed to restructure the description of when master metering was allowed and to define the term "impractical" used in the existing rule. The Board also included in the proposed rules

a prohibition on master metering multiple buildings, with an exception to allow master metering of multiple buildings owned by the same person or entity.

Written comments were filed by MidAmerican Energy Company (MidAmerican), Interstate Power and Light Company (IPL), Consumer Advocate Division of the Department of Justice (Consumer Advocate), Iowa Association of Municipal Utilities (IAMU), and Aquila, Inc., d/b/a Aquila Networks (Aquila). An oral presentation was held on August 21, 2002, at which IPL, MidAmerican, IAMU, and Consumer Advocate appeared and made comments. The Iowa Association of Electric Cooperatives (IAEC) also appeared and made oral comments.

By order issued August 26, 2002, the Board allowed parties to file additional comments suggesting modification to the proposed language in 199 IAC 19.3(1)"c" and 20.3(1)"c." Additional comments were filed by IPL and MidAmerican.

MidAmerican recommended a revision to paragraphs 19.3(1)"b" designed to address where MidAmerican is responsible for delivering gas and metering but is not selling the gas to the customer. The revision would read: ~~All~~ The amount of all gas delivered to multioccupancy premises within a single building, where units are separately rented or owned, ~~shall~~ must be ~~sold by the utility~~ measured on the basis of individual meter measurement for each unit, except in the following ~~circumstances~~ instances: MidAmerican recommended that the same modifications be made to paragraph 20.3(1)"b" for electricity.

MidAmerican stated in its initial comments and at the oral presentation that it was unsure if paragraph 19.3(1)"c" accomplished the purpose indicated by the Board

in the Notice of Intended Action. MidAmerican agreed with the revisions proposed by IPL discussed below.

Aquila suggested that the phrase for purposes of Section 19.3 be added to the first full sentence in paragraph "b" and before the word impractical in subparagraph "b"(4). Also, Aquila suggested that the "impractical" exception found in 19.3(1)"b"(4) and 20.3(1)"b"(4) also apply to 19.3(1)"c" and 20.3(1)"c." Aquila suggested that paragraph "c" be modified to include the phrase or where otherwise impractical at the end.

IPL recommends that the proposed paragraph 19.3(1)"c" be modified to read:

Master metering to multiple buildings is prohibited, except for
~~interior piping in buildings downstream from the customer's~~
~~meter or the start of customer piping where there is no~~
~~submetering master metering~~ multiple buildings owned by the
same person or entity. Multioccupancy premises within a
multiple building complex may be master metered pursuant to
this paragraph only if both the requirements of paragraphs "b"
and "d" of this subrule have been met.

Both IPL and MidAmerican suggested that paragraph 20.3(1)"c" be deleted. They stated the prohibition against master metering multiple buildings should only apply to natural gas service since master metering of electric service does not present the same safety concerns as master metering of gas pipelines.

IAMU stated in its comments that the primary purpose of these rules is to promote conservation of energy through the process of informing gas and electric customers of their energy consumption and billing such customers for that consumption. IAMU stated that by defining "impractical" the Board may further the original purpose of the rule. IAMU suggested that the provisions in paragraph "d" are laudable and problematic, and the Board should ensure that it is not asserting authority over rental payments. IAMU suggested the Board add the following language to clarify its authority: "When a landlord is simply passing on utility costs to tenants and not remetering or repricing utility service, the allocation of those costs should not be considered a utility function." IAMU suggested that the rule should have a symmetrical means of enforcement to ensure the policy can be fulfilled. IAMU recommended that the Board make clear how the new rule will be enforced.

The issue of how to enforce the rule was addressed at the oral presentation. MidAmerican indicated that its employees informed landlords and owners of the requirements of the existing rule. Consumer Advocate suggested that the utility alert the Board when there might be an enforcement problem at multioccupancy premises. Consumer Advocate stated that it did not expect the utility to assume responsibility for compliance, but the utility should be required to inform the Board where noncompliance might exist. Chairman Munns stated that each situation may be unique and so decisions of how to deal with each fact situation will probably depend on a case-by-case analysis.

No changes were suggested to proposed paragraph "e" which is now adopted paragraph "d."

The Board considered the proposed revisions discussed above and has determined that some of the proposed revisions will improve and further clarify the proposed rule changes. To ensure the rules concerning when a company may master meter are clear, the Board will modify the proposed rule making by deleting the language in proposed 19.3(1)"d" and 20.3(1)"d" and inserting that language into the requirements in 19.3(1)"b" and 20.3(1)"b." This will place all requirements concerning master metering of single building multioccupancy premises within a single paragraph. This modification to the proposed rule making will make it clear that an owner or landlord must comply with one of the exceptions of paragraph "b" and comply with the billing requirements now in paragraph "b" to master meter a multioccupancy single building.

The Board finds that modification to the language in the first sentence of paragraph "b" is required to address the concern of MidAmerican to ensure the rule covers gas delivered by a utility but not sold to the customer. MidAmerican explains that the change is necessary since it does not sell all of the gas it delivers and the rule should apply to the delivery of all gas. The Board will make the changes recommended to 19.3(1)"b" and will also make the changes to 20.3(1)"b."

The definition of "impractical" in paragraph "b" received favorable comment and will not be modified. The Board finds that the revisions proposed by Aquila to

modify paragraph "b" are not necessary and the revisions to paragraph "c" discussed below should address Aquila's concerns.

The Board finds that the proposed language in paragraph 19.3(1)"c" should be modified to clarify that persons or entities, such as homeowners, colleges, and universities, may master meter multiple buildings that they own. The original language attempted to incorporate language from the federal Department of Transportation, Office of Pipeline Safety (OPS), but upon review, the language was not sufficiently clear concerning the exception to the prohibition against master metering multiple buildings.

To complete the clarification, the Board will adopt the revisions proposed by IPL and supported by MidAmerican. The last sentence proposed by IPL will be added to the paragraph with the reference to paragraph "d" removed since those requirements are now found in paragraph "b."

These two modifications to the proposed rule will make it clear that an owner, such as a college or university, may master meter multiple buildings on a tract of land, but where the owner has a multioccupancy building, such as a dormitory, downstream of the master meter, the requirements of paragraph "b" must be met before the multioccupancy building can be served from the master meter. Thus, if the owner's master metered property includes a multioccupancy building, that building may be served by the master meter if it meets one of the exceptions in paragraph "b" and the owner only passes through the total cost of gas or electricity to the tenants.

Even though there are not the same safety concerns with electric service, the Board finds that the prohibition against master metering multiple buildings should be maintained for electric service in paragraph 20.3(1)"c." Paragraph "c" will allow master metering of multiple buildings owned by the same person or entity and master metering of electric service for multiple buildings owned by different persons or entities are prohibited unless a waiver is obtained from the Board. In addition, this will keep the standards for service similar for both types of service.

The Board finds that no modifications to the language concerning the pass through of gas and electric charges by the owner or landlord are warranted. The language accomplishes the same goal as suggested by IAMU and the additional language suggested is not necessary. The Board agrees with IAMU that an owner who passes through only the costs incurred for natural gas and electric service is not engaged in a utility function. If the owner charges an amount above the total utility costs for the premises, then the landlord is engaged in a utility function and is prohibited from master metering without obtaining a waiver of the rule.

The other issue raised by several parties and not specifically addressed in the proposed rules is enforcement of the provisions of paragraphs "b" and "c." The language in paragraph "b" requires the utility to measure gas it delivers by an individual meter unless the building meets one of the exceptions. A utility is then required to make a judgment concerning whether one of the exceptions is met. The utility will also have to inform the owner or landlord that the rule prevents a markup of the price of gas or electricity paid by the owner or landlord.

It is the utility's responsibility to inform the owner of the rules concerning master metering of both a single multioccupancy building and multiple buildings. The utility should not install a master meter unless the multioccupancy building meets the requirements of paragraph "b" and the landlord indicates that there will be no additional charge above the owner's total costs to the tenants. As suggested by Consumer Advocate, the utility should inform the Board if it finds noncompliance with the individual metering rule at a location.

Although the Board does not have jurisdiction over the owner-tenant relationship to ensure the landlord is not charging more than total costs of utility service to tenants, the Board does have jurisdiction over owner's who may be engaged in utility functions. Complaints against owners or landlords will be determined by the Board on a case-by-case basis. This procedure is consistent with the procedure described by MidAmerican and supported by Consumer Advocate. The utility will have the same responsibility when it receives a request to master meter a location with multiple buildings downstream of a master meter.

After consideration of the comments, the Board will adopt the rescission of paragraphs 19.3(1)"b" and 20.3(1)"b," and adopt new paragraphs 19.3(1)"b," "c," and "d," and 20.3(1)"b," "c," and "d" as approved in this order. The Board will also reletter existing paragraphs 19.3(1)"c" and "d" as "e" and "f," and 20.3(1)"c" and "d" as "e" and "f." The Board has attached and incorporated by reference in this order an Adopted and Filed notice to be published in the Iowa Administrative Bulletin that reflects the amendments adopted by the Board in this order.

The adoption of these amendments to the Board's rules on master metering conclude the Board's review of these issues that began in Docket No. INU-01-2. The Board will close that docket in this order.

IT IS THEREFORE ORDERED:

1. The rule making identified as Docket No. RMU-02-6 is adopted.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.
3. Docket No. NOI-01-2 is closed.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary. Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 27th day of December, 2002.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, and 476.2, the Utilities Board (Board) issued an order on December 27, 2002, in Docket No. RMU-02-6, In re: Natural Gas And Electric Master Metering, "Order Adopting Amendments and Closing Docket" that adopted the rescission of existing paragraphs 199 IAC 19.3(1)"b" and 20.3(1)"b" and adopted new paragraphs 199 IAC 19.3(1)"b," "c," and "d," and 20.3(1)"b," "c," and "d." In addition, the Board relettered existing paragraphs 19.3(1)"c" and "d" as "e" and "f," and 20.3(1) "c" and "d" as "e" and "f." Notice of Intended Action was published in IAB Vol. XXV, No.2 (7/24/02) p. 141, ARC 1836B.

The purpose of the rule making is to clarify the Board's rules concerning the individual metering requirements for providing natural gas and electric service and to provide more specific standards for a owner or landlord to master meter a building with multiple occupants. The rules proposed to restructure the description of when master metering was allowed and to define the term "impractical" used in the existing rule. The Board also included in the proposed rules a prohibition on master metering multiple buildings with an exception to allow master metering of multiple buildings owned by the same person or entity.

Written comments were filed by MidAmerican Energy Company (MidAmerican), Interstate Power and Light Company (IPL), the Consumer Advocate Division of the

Department of Justice (Consumer Advocate), Iowa Association of Municipal Utilities (IAMU), and Aquila, Inc., d/b/a Aquila Networks. An oral presentation was held on August 21, 2002, at which IPL, MidAmerican, IAMU, and Consumer Advocate appeared and made comments. The Iowa Association of Electric Cooperatives also appeared and made oral comments.

By order issued August 26, 2002, the Board allowed parties to file additional comments suggesting modification to the proposed language in 199 IAC 19.3(1)"c" and 20.3(1)"c." Additional comments were filed by IPL and MidAmerican.

In the order adopting the rescission and new paragraphs, the Board discusses the comments filed concerning the proposed rule making and the modifications made to the proposed rule making. The Board's order may be found at the Board's website at www.state.ia.us/iub or a copy of the order may be obtained from the Board's Records Center, 350 Maple Street, Des Moines, Iowa 50319-0069.

The rescissions and new paragraphs adopted by the Board are intended to implement Iowa Code sections 17A.4, 476.1, and 476.2.

These amendments will become effective February 26, 2003.

The following amendments are adopted.

Item 1. Rescind paragraph **19.3(1)"b,"** reletter paragraphs **"c"** and **"d"** as **"e"** and **"f,"** and adopt **new** paragraphs **"b," "c,"** and **"d"** as follows:

b. The amount of all gas delivered to multioccupancy premises within a single building, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

(1) Where gas is used in centralized heating, cooling or water-heating systems;

(2) Where a facility is designated for elderly or handicapped persons;

(3) Where submetering or resale of service was permitted prior to 1966; or

(4) Where individual metering is impractical. "Impractical" means: (1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

If a multioccupancy building is master-metered, the end-user occupants may be charged for natural gas as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the gas service is used, the total charge for gas service shall not exceed the total gas bill charged by the utility for the same period.

c. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multioccupancy premises within a multiple building complex may be master metered pursuant to this paragraph only if the requirements of paragraph 19.3(1)"b" have been met.

d. For purposes of this subrule, a "master meter" means a single meter used in determining the amount of natural gas provided to a multioccupancy building or multiple buildings.

Item 2. Rescind paragraph **20.3(1)"b,"** reletter paragraph **"c"** and **"d"** as **"e"** and **"f,"** and adopt new paragraphs **"b," "c,"** and **"d"** as follows:

b. The amount of all electricity delivered to multioccupancy premises within a single building, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

- (1) Where electricity is used in centralized heating, cooling, water-heating, or ventilation systems;
- (2) Where a facility is designated for elderly or handicapped persons;
- (3) Where submetering or resale of service was permitted prior to 1966; or
- (4) Where individual metering is impractical. "Impractical" means: (1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

If a multioccupancy building is master-metered, the end-user occupants may be charged for electricity as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the electric service is used, the total charge for electric service shall not exceed the total electric bill charged by the utility for the same period.

c. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multioccupancy premises within a multiple building complex may be master metered pursuant to this paragraph only if the requirements of paragraph 20.3(1)"b" have been met.

d. For purposes of this subrule, a "master meter" means a single meter used in determining the amount of electricity provided to a multioccupancy building or multiple buildings.

December 27, 2002

/s/ Diane Munns

Diane Munns
Chairman